(d) *Classified records.* Any request for classified records which are in the custody of the Department of Labor will be referred to the classifying agency under paragraphs (b) and (c) of this section.

§ 70.21 Form and content of responses.

(a) *Form of notice granting a request.* (1) After a disclosure officer has made a determination to grant a request in whole or in part, the disclosure officer will notify the requester in writing. The notice will describe the manner in which the record will be disclosed. The disclosure officer will provide the record in the form or format requested if the record is readily reproducible in that form or format, provided the requester has agreed to pay and/or has paid any fees required by Subpart C of this part. The disclosure officer will determine on a case-by-case basis what constitutes a readily reproducible format. Each component should make reasonable efforts to maintain its records in commonly reproducible forms or formats.

(2) Alternatively, a disclosure officer may make a copy of the releasable portions of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection will not unreasonably disrupt the operations of the component.

(b) *Form of notice denying a request.* A disclosure officer denying a request in whole or in part must notify the requester in writing. The notice must be signed by the disclosure officer and will include:

(1) The name and title or position of the disclosure officer.

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions relied upon in denying the request. Deletions should be indicated at the place in the record where the deletion is made.

(3) An estimate of the volume of records of information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption.

(4) A statement that the denial may be appealed under § 70.22 and a description of the requirements of that section.

(c) *Record cannot be located or has been destroyed.* If a requested record cannot be located from the information supplied, or it is known or believed to have been destroyed or otherwise disposed of, the disclosure officer will so notify the requester in writing and this determination may be appealed as described in § 70.22.

(d) *Date for determining responsive records.* When responding to a request, a component will ordinarily include only those records existing as of the date the component begins its search for them. If any other date is used, the component will inform the requester of that date.

§ 70.22 Appeals from denial of requests.

(a) When a request for access to records has been denied in whole or in part; where a requester disputes a determination that records cannot be located or have been destroyed; where a requester disputes a determination by a disclosure officer concerning the assessment or waiver of fees; or when a component fails to respond to a request within the time limits set forth in the FOIA, the requester may appeal to the Solicitor of Labor. The appeal must be filed within 90 days of the date of the action being appealed.

(b) The appeal will state in writing the grounds for appeal, and it may include any supporting statements or arguments, but such statements are not required. In order to facilitate processing of the appeal, the appeal should include the appellant's mailing address and daytime telephone number, as well as copies of the initial request and the disclosure officer's response. The envelope and the letter of appeal should be clearly marked: ''Freedom of Information Act Appeal.'' Any amendment to the appeal must be in writing and received prior to a decision on the appeal.

(c) The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal